

Introduced by Senator Evans

February 22, 2013

An act to amend Section 231 of the Code of Civil Procedure, relating to juries.

LEGISLATIVE COUNSEL'S DIGEST

SB 794, as amended, Evans. Juries: criminal trials: peremptory challenges.

~~Existing law provides that in criminal cases, if the offense charged is punishable with death, or with imprisonment in the state prison for life, the defendant is entitled to 20 and the people to 20 peremptory challenges. Existing law, subject to exception, provides that for any other offense, the defendant is entitled to 10 and the state to 10 peremptory challenges.~~

~~This bill would instead provide that, in those latter cases, the defendant and the state are entitled to an unspecified number of peremptory challenges.~~

Existing law provides that in a criminal case, if the offense charged is punishable with a maximum term of imprisonment of 90 days or less, the defendant and the state are each entitled to 6 peremptory challenges of prospective jurors. Existing law also provides that when 2 or more defendants are jointly tried, their challenges are to be exercised jointly, but each defendant is also entitled to 4 additional challenges which may be exercised separately, and the state is entitled to the same number of additional challenges.

This bill would recast these provisions to apply to a criminal case in which the offense charged is punishable with a maximum term of

imprisonment for one year or less. The bill would provide that in that instance the defendant and the state would each be allowed 5 peremptory challenges of prospective jurors. The bill would provide that if 2 or more defendants are jointly tried for an offense punishable with a maximum term of one year or less, their challenges would be exercised jointly, but each defendant would also be entitled to 2 additional challenges which may be exercised separately, and the state would also be entitled to 2 additional challenges.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 231 of the Code of Civil Procedure is
2 amended to read:
3 231. (a) In criminal cases, if the offense charged is punishable
4 with death, or with imprisonment in the state prison for life, the
5 defendant is entitled to 20 and the people to 20 peremptory
6 challenges. Except as provided in subdivision (b), in a trial for any
7 other offense, the defendant is entitled to 10 and the state to
8 10 peremptory challenges. When two or more defendants
9 are jointly tried, their challenges shall be exercised jointly, but
10 each defendant shall also be entitled to five additional challenges
11 which may be exercised separately, and the people shall also be
12 entitled to additional challenges equal to the number of all the
13 additional separate challenges allowed the defendants.
14 (b) If the offense charged is punishable with a maximum term
15 of imprisonment of ~~90 days~~ *one year* or less, the defendant is
16 entitled to ~~six~~ *five* and the state to ~~six~~ *five* peremptory challenges.
17 When two or more defendants are jointly tried, their challenges
18 shall be exercised jointly, but each defendant shall also be entitled
19 to ~~four~~ *two* additional challenges which may be exercised
20 separately, and the state shall also be entitled to additional
21 challenges equal to the number of all the additional separate
22 challenges allowed the defendants.
23 (c) In civil cases, each party shall be entitled to six peremptory
24 challenges. If there are more than two parties, the court shall, for
25 the purpose of allotting peremptory challenges, divide the parties
26 into two or more sides according to their respective interests in
27 the issues. Each side shall be entitled to eight peremptory

1 challenges. If there are several parties on a side, the court shall
2 divide the challenges among them as nearly equally as possible.
3 If there are more than two sides, the court shall grant such
4 additional peremptory challenges to a side as the interests of justice
5 may require; provided that the peremptory challenges of one side
6 shall not exceed the aggregate number of peremptory challenges
7 of all other sides. If any party on a side does not use his or her full
8 share of peremptory challenges, the unused challenges may be
9 used by the other party or parties on the same side.

10 (d) Peremptory challenges shall be taken or passed by the sides
11 alternately, commencing with the plaintiff or people; and each
12 party shall be entitled to have the panel full before exercising any
13 peremptory challenge. When each side passes consecutively, the
14 jury shall then be sworn, unless the court, for good cause, shall
15 otherwise order. The number of peremptory challenges remaining
16 with a side shall not be diminished by any passing of a peremptory
17 challenge.

18 (e) If all the parties on both sides pass consecutively, the jury
19 shall then be sworn, unless the court, for good cause, shall
20 otherwise order. The number of peremptory challenges remaining
21 with a side shall not be diminished by any passing of a peremptory
22 challenge.